

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DEMERRIS WALKER)	
)	
Petitioner,)	
)	
v.)	Civ.Act.No. 07-624-JJF
)	
PERRY PHELPS , Warden)	
and JOSEPH R. BIDEN, III , Attorney)	
General for the State of Delaware)	
)	
Respondents.)	

MOTION FOR EXTENSION OF TIME

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondents move for an extension of time in which to file an answer to the petition. In support thereof, respondents state the following:

1. The petitioner, Demerris Walker, has applied for federal habeas relief, alleging a variety of errors in his state court criminal proceedings. D.I. 1. By the terms of the Court's order, the answer was due to be filed on January 28, 2008.
2. Due to an administrative error, counsel was not assigned this case until January 29, 2008.
3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9th Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to Rule 4 expressly states that the district court has "the discretion to take into account various factors such as the respondent's workload" in determining the period of time that should be allowed to answer the petition.

4. This is respondents' first request for an extension of time in this case.

5. Respondents submit that an extension of time to and including February 29, 2008, in which to file an answer is reasonable. Respondents submit herewith a proposed order.

/s/ James T. Wakley
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 4612

DATE: February 1, 2008

RULE 7.1.1 CERTIFICATION

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/ James T. Wakley
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Counsel for Respondents

Date: February 1, 2008

CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2008, I electronically filed the attached documents with the Clerk of Court using CM/ECF. I also hereby certify that on February 1, 2008, I mailed, by United States Postal Service, the same documents to the following non-registered participant:

Demerris Walker
SBI # 318389
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

/s/ James T. Wakley
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 4612
james.wakley@state.de.us

Date: February 1, 2008

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

DEMERRIS WALKER

Petitioner,

V.

Civ.Act.No. 07-624-JJF

PERRY PHELPS, Warden
and **JOSEPH R. BIDEN, III**, Attorney
General for the State of Delaware

Respondents.

ORDER

This _____ day of _____, 2008,

WHEREAS, respondents having requested an extension of time in which to file an answer, and

WHEREAS, it appearing to the Court that good cause has been shown for the requested extension,

IT IS HEREBY ORDERED that respondents' answer shall be filed on or before February 1, 2008.

United States District Judge